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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ANDRE DIMITRI JAMERSON,

Defendant and Appellant.

H042669

(Monterey County
Super. Ct. No. SS141118A)

I. INTRODUCTION

Defendant Andre Dimitri Jamerson appeals after pleading no contest to possession of marijuana for sale (Health & Saf. Code, § 11359) and admitting that he had a prior strike conviction (Pen. Code, §1170.12, subd. (c)(1)).¹ Defendant was sentenced to a total term of 32 months in the state prison.

Defendant filed a timely notice of appeal and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the California Supreme Court's direction in *Kelly, supra*, at page 110, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."

II. FACTUAL BACKGROUND

As defendant was convicted by plea, the following facts are taken from the probation officer's report.

On April 25, 2014, members of the Peninsula Regional Violence and Narcotics Team were surveilling defendant at his home. The officers knew that defendant was on post-release community supervision. When they saw defendant drive away from his home in a vehicle lacking a front license plate, the officers conducted a traffic stop.

Defendant was searched during the traffic stop. On his person, the officers found approximately \$1,800 in cash and approximately five grams of marijuana. In his vehicle, the officers found "a razor blade with a white powdery substance on it" and "numerous small coin baggies." They also found defendant's unlocked cell phone, which displayed several text messages "involving drug deals." When an officer asked defendant what he did for a living, defendant first replied that he worked for a temporary agency, then stated: "To be honest, I sell marijuana." Defendant was taken into custody and transported to the Seaside Police Department.

Several officers then conducted a probation search at defendant's home. Defendant's grandmother was present and identified his room, which the officers searched. They found two baggies containing 7.7 grams of crack cocaine and three unidentified pills.

At the Seaside Police Department, defendant was "Mirandized." He told the officers that "he only sold marijuana" and he had a large amount of cash to buy a ring for

his fiancée. Defendant denied any knowledge of the crack cocaine that the officers had found in his room.

III. PROCEDURAL BACKGROUND

The complaint filed on May 6, 2014, charged defendant with two felony offenses, possession of marijuana for sale (Health & Saf. Code, § 11359; count 1) and possession for sale of cocaine base (Health & Saf. Code, § 11351.5; count 2).

On May 29, 2014, defendant entered into a plea agreement in which he agreed to plead no contest to count 1, possession of marijuana for sale, in exchange for a “split sentence” of three years, with one year to be served in custody and two years suspended with mandatory supervision.

At the time of the original sentencing hearing on July 15, 2014, defense counsel advised the trial court that “there appears to be a strike allegation that was uncharged previously that affects the ability to get a split sentence.” The court granted defendant’s request for a continuance to enable him to consider a new settlement offer.

The matter was continued several times. The record reflects that during the hearing held on December 2, 2014, the complaint was orally amended to add the allegation that defendant had suffered a prior conviction that qualified as a strike (§ 1170.12, subd. (c)(1)).² Defendant maintained his no contest plea to count 1, possession of marijuana for sale, and admitted the prior strike allegation in exchange for a maximum sentence of 32 months. The parties indicated their understanding that defendant would file a motion requesting that the trial court strike his prior strike conviction pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 (*Romero*).

Defendant filed a *Romero* motion in March 2015 that the prosecutor opposed. The trial court denied the *Romero* motion during the sentencing hearing held on

² A filed amended complaint was not included in the record on appeal.

April 14, 2015. The court then sentenced defendant to a total term of 32 months in the state prison (the low term of 16 months, doubled pursuant to section 1170.12, subd. (c)(1)). The court granted 141 days of custody credits.³ Defendant was ordered to register as a narcotics offender pursuant to Health & Safety Code, section 11590 and to pay various fines and fees. The remaining count was dismissed.

IV. DISCUSSION

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (See *Wende, supra*, 25 Cal.3d at pp. 441-443.)

V. DISPOSITION

The judgment is affirmed.

³ The abstract of judgment indicates that the grant of custody credits was updated on June 9, 2015, to award 256 days.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MIHARA, J.